



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
Former Yugoslavia since 1991

Case No. IT-05-87-A

Date: 14 July 2010

Original: English

IN THE APPEALS CHAMBER

Before: Judge Liu Daqun, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Andréia Vaz
Judge Theodor Meron

Registrar: Mr. John Hocking

Decision: 14 July 2010

PROSECUTOR

v.

**NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
SRETEN LUKIĆ**

PUBLIC

**PUBLIC REDACTED VERSION OF THE DECISION ON
SRETEN LUKIĆ'S SECOND MOTION FOR PROVISIONAL
RELEASE ON COMPASSIONATE GROUNDS**

The Office of the Prosecutor:

Government of the Republic of Serbia

Mr. Peter Kremer QC

Government of the Kingdom of The Netherlands

Counsel for the Defence:

Mr. Toma Fila and Mr. Vladimir Petrović for Mr. Nikola Šainović
Mr. Tomislav Višnjić and Mr. Peter Robinson for Mr. Dragoljub Ojdanić
Mr. John Ackerman and Mr. Aleksandar Aleksić for Mr. Nebojša Pavković
Mr. Mihajlo Bakrač and Mr. Đuro Čepić for Mr. Vladimir Lazarević
Mr. Branko Lukić and Mr. Dragan Ivetić for Mr. Sreten Lukić

1. The Appeals Chamber of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Appeals Chamber” and “Tribunal”, respectively) is seised of “Sreten Lukic’s [sic] Urgent Motion for Provisional Release on Compassionate Grounds” filed confidentially by Counsel for Sreten Lukić (“Lukić”) on 6 July 2010 (“Motion”). The Office of the Prosecutor (“Prosecution”) filed its confidential response on 8 July 2010.¹ Lukić filed his confidential reply on 9 July 2010.² On the same day, The Netherlands, in its capacity of the host State, filed its submissions indicating that it was not opposed to Lukić’s provisional release.³ Lukić filed a confidential supplement to the Motion on 13 July 2010.⁴

I. BACKGROUND

2. The Appeals Chamber notes that whereas Lukić was granted provisional release on two occasions at the pre-trial stage of his case,⁵ all his requests for provisional release made after the commencement of the trial were dismissed.⁶ On 26 February 2009, Trial Chamber III (“Trial Chamber”) convicted Lukić of deportation, forcible transfer, murder and persecution as crimes against humanity and murder as a violation of the laws or customs of war pursuant to Articles 5(d), 5(i), 5(a), 5(h), 3 and 7(1) of the Tribunal’s Statute and sentenced him to 22 years of imprisonment.⁷

¹ Prosecution Response to Sreten Lukić’s Second Urgent Motion for Provisional Release on Compassionate Grounds, 8 July 2010 (confidential) (“Response”).

² Sreten Lukic’s [sic] Reply in Support of Motion for Provisional Release on Compassionate Grounds, 9 July 2010 (confidential) (“Reply”).

³ Correspondence from the Head of the Host Nation Division, for the Minister of Foreign Affairs “Re Provisional release Mr Sreten Lukić”, 9 July 2010 (confidential).

⁴ Sreten Lukic’s [sic] Supplement to the Motion for Provisional Release on Compassionate Grounds, 13 July 2010 (confidential) (“Supplement”).

⁵ *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-PT, Decision on Joint Motion for Temporary Provisional Release During Summer Recess, 1 June 2006; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-PT, Decision on Sreten Lukić’s Provisional Release, 3 October 2005 (public redacted version; confidential decision rendered on 30 September 2005).

⁶ *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Temporary Provisional Release, 12 December 2008; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Temporary Provisional Release, 31 October 2008; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Temporary Provisional Release, 26 September 2008; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Provisional Release, 13 June 2008; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion to Reconsider Denial of Motion for Temporary Provisional Release, 12 December 2007 (public with confidential Annex); *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Temporary Provisional Release, 7 December 2007 (public with confidential Annex); *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Reconsideration of Decision on Provisional Release, 4 July 2007; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Temporary Provisional Release, 25 June 2007; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Lukić Motion for Provisional Release, 22 May 2007; *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Decision on Joint Defence Motion for Provisional Release During Winter Recess, 5 December 2006.

⁷ *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Judgement, 26 February 2009 (“Trial Judgement”), vol. 3, para. 1212.

3. In accordance with Rules 108 and 111 of the Tribunal's Rules of Procedure and Evidence ("Rules"), Lukić filed his notice of appeal and his appellant's brief on 27 May 2009⁸ and 23 September 2009,⁹ respectively. He is currently detained in the United Nations Detention Unit ("UNDU") pending the resolution of the appeals lodged against the Trial Judgement.

4. On 22 February 2010, the Appeals Chamber dismissed Lukić's motion seeking temporary provisional release to assist his injured father in Serbia¹⁰ on the ground that Lukić failed to demonstrate the existence of an acute justification that would amount to special circumstances under Rule 65(I)(iii) of the Rules.¹¹

II. APPLICABLE LAW

5. Pursuant to Rule 65(I) of the Rules, a convicted person may bring an application seeking provisional release for a fixed period. By virtue of Rule 107 of the Rules, the whole of Rule 65 applies *mutatis mutandis* to applications brought before the Appeals Chamber under this provision.¹² Rule 65(I) of the Rules thus provides that the Appeals Chamber may grant provisional release if it is satisfied that: (i) the convicted person, if released, will either appear at the hearing of the appeal or will surrender into detention at the conclusion of the fixed period, as the case may be; (ii) the convicted person, if released, will not pose a danger to any victim, witness or other person; and (iii) special circumstances exist warranting such release. These requirements must be considered cumulatively.¹³ The Appeals Chamber recalls that "whether an applicant satisfies these requirements is to be determined on a balance of probabilities, and the fact that an individual has already been sentenced is a matter to be taken into account by the Appeals Chamber when balancing the probabilities".¹⁴ Finally, the discretionary assessments of the requirements under Rule 65 are made on a case-by-case basis.¹⁵

⁸ *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-A, Sreten Lukic's [sic] Notice of Appeal from Judgment [sic] and Request for Leave to Exceed the Page Limit, 27 May 2009.

⁹ Defense [sic] Appellant's [sic] Brief, 23 September 2009 (public with confidential Annexes). In accordance with the Pre-Appeal Judge's decision of 29 September 2009, Lukić re-filed his appellant's brief on 7 October 2009. See Decision on the Prosecution's Motion for an Order Requiring Sreten Lukić to File his Appellant's Brief in Accordance with the Appeals Chamber Decisions, 29 September 2009; Defense [sic] Appellant's [sic] Brief Refiled [sic], 7 October 2009 (public with confidential Annexes).

¹⁰ Sreten Lukic's [sic] Urgent Motion for Provisional Release on Compassionate Grounds with Annex A, 11 February 2010 (confidential).

¹¹ Decision on Sreten Lukić's Motion for Provisional Release on Compassionate Grounds, 22 February 2010 (confidential) ("Decision of 22 February 2010").

¹² Decision on Vladimir Lazarević's Motion for Temporary Provisional Release on Compassionate Grounds, 17 May 2010 (public redacted version) para. 7, and references cited therein.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

III. DISCUSSION

A. Arguments of the parties

6. Lukić seeks “temporary provisional release on compassionate grounds as soon as possible to visit his seriously [REDACTED] ill father”.¹⁶ In this regard, Lukić submits that [REDACTED].¹⁷ Lukić therefore requests to be provisionally released for a period of seven days in order to “see his father for one last time while he is still alive”, emphasizing that he has not seen him for the past five years.¹⁸

7. Lukić asserts that, if released, he will not pose danger to any victim, witness or other person.¹⁹ He further refers to the occasions when he was provisionally released during the pre-trial stage, underlining that he fully adhered to all the conditions imposed by the Trial Chamber.²⁰ He also refers to the guarantees issued by the Government of the Republic of Serbia (“Serbia”) on the occasion of his previous request for provisional release, submitting that they remain in effect.²¹

8. In response, the Prosecution submits that while Lukić might have succeeded in demonstrating the existence of special circumstances within the meaning of Rule 65(I)(iii) of the Rules, he has failed to satisfy other Rule 65(I) requirements, notably that he would surrender into detention after conclusion of his provisional release and not pose danger to any victim, witness or other person.²² The Prosecution adds that, in its view, there is no indication that the State Guarantees submitted in connection with Lukić’s previous motion for provisional release remain in force and, therefore, argues that Lukić has yet to secure valid guarantees from Serbia.²³ In any case, it points out that the State Guarantees do not mention either the provision of 24-hour surveillance or the arrangements for Lukić’s travel to and stay in Užice.²⁴ The Prosecution insists that there is no reason for Lukić to stay in Belgrade at his familial home and that, if released, he should be transferred directly to Užice, thus reducing the overall duration of the provisional release.²⁵ Finally,

¹⁶ Motion, para. 1.

¹⁷ Motion, para. 3, referring to *ibid.*, Annex A (confidential) (“Medical Report”).

¹⁸ Motion, paras 6-7; see also *ibid.*, para. 12 and p. 6.

¹⁹ Motion, para. 13.

²⁰ Motion, para. 13.

²¹ Motion, para. 14, referring to *ibid.*, Annex B (confidential) (“State Guarantees”).

²² Response, paras 1-3.

²³ Response, para. 4.

²⁴ Response, para. 4.

²⁵ Response, para. 5; see also *ibid.*, para. 7 on the duration of provisional release. The Prosecution further suggests that Lukić “be detained in a suitable State military or civilian detention facility” in Užice (*ibid.*, para. 6(2)).

it suggests that should the Appeals Chamber grant the Motion, it should impose a number of strict conditions to ensure that all the requirements of Rule 65(I) are met.²⁶

9. Lukić replies that the Prosecution “misapprehends the system in place in Serbia for the control and surveillance of persons on provisional release”.²⁷ He further submits that the Appeals Chamber has previously granted his co-appellant’s request for provisional release in similar circumstances allowing for comparable travel arrangements within Serbia.²⁸ With respect to the requirement under Rule 65(I)(ii) of the Rules, Lukić underlines that his Motion provides full details of his movements in Serbia, none of which involve the areas where the victims or witnesses reside.²⁹ As for the Prosecution’s challenges to the State Guarantees, Lukić points out that when he was previously released under similarly formulated guarantees, he was subjected to 24-hour surveillance and control with respect to all his movements.³⁰ He further submits that regardless of the specific language used in the State Guarantees, the Appeals Chamber may impose any relevant conditions and restrictions.³¹ Lukić also insists that, contrary to the Prosecution’s suggestion, the State Guarantees validly apply to his current Motion.³² Finally, as regards his residence whilst on provisional release, Lukić argues that he has provided sufficient detail about his intended locations in Užice and Belgrade, which are fully compatible with the condition of 24-hour surveillance.³³ He adds that the necessity to spend time with his wife and son in Belgrade is directly related to his grief over his father’s condition.³⁴

10. In his Supplement, Lukić submits that his father has been transferred to Belgrade, to the Clinical Center of Serbia (“Belgrade Hospital”) due to his “rapidly deteriorating condition”.³⁵ Consequently, he requests to amend his previous submissions insofar as he now seeks provisional release only to Belgrade.³⁶

²⁶ Response, para. 6.

²⁷ Reply, para. 4.

²⁸ Reply, paras 5, 7, referring to Decision on Urgent Motion Requesting Provisional Release of Nebojša Pavković on Compassionate Grounds, 17 September 2009 (“Decision of 17 September 2009”).

²⁹ Reply, para. 10. He also adds that “given the grim facts that are the basis of the Provisional Release Motion, namely the impending death of his father, Mr. Lukic [*sic*] at present only has that on his mind and would be preoccupied with treasuring the last chance to speak and interact with his father rather than anything related to victims or witnesses” (*ibid.*, para. 11).

³⁰ Reply, para. 14.

³¹ Reply, para. 15, referring to Decision of 17 September 2009.

³² Reply, para. 16.

³³ Reply, para. 17.

³⁴ Reply, para. 18.

³⁵ Supplement, para. 4. See also Exhibit “A” (confidential) appended to the Supplement.

³⁶ Supplement, para. 5.

B. Analysis

1. Special circumstances under Rule 65(I) of the Rules

11. The Appeals Chamber recalls that the specificity of provisional release at the post-trial stage is reflected by Rule 65(I)(iii) of the Rules, which provides for an additional criterion, *i.e.* that “special circumstances exist warranting such release”.³⁷ In such situations, the Appeals Chamber has concluded that special circumstances related to humane and compassionate considerations exist where there is an acute justification, such as the applicant’s medical need or a memorial service for a close family member.³⁸ The Appeals Chamber has also granted provisional release for a visit to a close family member in “extremely poor health and whose death is believed to be imminent”.³⁹ Because “the notion of acute justification [is] inextricably linked to the scope of special circumstances which could justify provisional release on compassionate grounds at the appellate stage”, justifications such as wanting to spend time with family have explicitly not been recognized as special circumstances under Rule 65(I)(iii) of the Rules.⁴⁰

12. Furthermore, in relation to Lukić’s arguments regarding personal compelling circumstances,⁴¹ the Appeals Chamber also recalls that “the fact that some accused have been granted provisional release for comparable reasons pending their trial cannot be automatically applied by analogy to persons who have already been convicted by a Trial Chamber and who are seeking provisional release pending the appellate proceedings”.⁴²

13. [REDACTED] The Appeals Chamber finds that the said diagnosis, combined with the generally deteriorating state of health and advanced age of Lukić’s father, qualifies as acute justification within the meaning explained above.⁴³ The Appeals Chamber is therefore satisfied that this requirement of Rule 65(I) of the Rules is met.

³⁷ Decision of 22 February 2010, para. 13, and references cited therein.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ Motion, para. 8.

⁴² Decision of 22 February 2010, para. 14, citing Decision on Vladimir Lazarević’s Motion for Temporary Provisional Release on the Grounds of Compassion, 2 April 2009 (confidential), para. 8; *Prosecutor v. Pavle Strugar*, Case No. IT-01-42-A, Decision on Defence Request Seeking Provisional Release on the Grounds of Compassion, 2 April 2008 (public redacted version), para. 11.

⁴³ See *supra*, para. 10; *cf. Prosecutor v. Pavle Strugar*, Case No. IT-01-42-A, Decision on the Renewed Defence Request Seeking Provisional Release on Compassionate Grounds, 15 April 2008 (public redacted version) (“*Strugar* Decision of 15 April 2008”), para. 11.

2. Other Rule 65(I) requirements

14. The Appeals Chamber is aware that, as a matter of principle, the risk of flight associated with granting a request for provisional release is higher at the present stage, after Lukić was sentenced by the Trial Chamber to 22 years of imprisonment, than it was at the pre-trial stage when his requests for provisional release were granted. However, the Appeals Chamber finds, in light of the discussion below, that the requirement under Rule 65(I)(i) of the Rules is satisfied.

15. The Appeals Chamber takes note of the State Guarantees provided on 18 February 2010, and understands that they remain in force.⁴⁴ Contrary to the Prosecution's suggestion, the Appeals Chamber does not find that the State Guarantees can be read as limited to Lukić's previous motion for provisional release, and has no reason to believe that they are no longer applicable, given that there is no end date to their validity and they refer to "a decision by which [the Appeals Chamber] will allow the accused Sreten Lukic [sic] [to] be temporarily realized [sic] from custody".⁴⁵

16. Furthermore, the Appeals Chamber notes that when provisionally released during the pre-trial stage, Lukić complied with all the conditions imposed by the Trial Chamber.⁴⁶ That said, the Appeals Chamber agrees with the Prosecution and finds that at this stage of the proceedings, the conditions of Lukić's provisional release should be stricter than the ones ordered during the pre-trial phase and include, *inter alia*, armed 24-hour surveillance. The fact that the State Guarantees do not mention Serbia's responsibility for armed 24-hour surveillance and certain other details that the

⁴⁴ Cf. Decision of 17 September 2009, para. 11.

⁴⁵ State Guarantees, p. 1 (emphasis added). In addition, with respect to the Prosecution's suggestion that Lukić has to provide more recent guarantees from Serbia in order to satisfy the requirements of Rule 65(I) of the Rules, the Appeals Chamber recalls that the said provision places no obligation upon an applicant for provisional release "to provide guarantees from a State as a prerequisite to obtaining provisional release" and that "[w]hilst a State's guarantees may carry considerable weight in support of an application for provisional release", all other relevant factors must be taken into account in order to decide whether the requirements of Rule 65(B) of the Rules have been met (*Édouard Karemera et al. v. The Prosecutor*, Case No. ICTR-98-44-AR65, Decision on Matthieu Ndirumpatse's Appeal Against Trial Chamber's Decision Denying Provisional Release, 7 April 2009, para. 13, referring to *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-AR65.4, Decision on Prosecution Appeal of Decision on Provisional Release and Motions to Present Additional Evidence Pursuant to Rule 115, 26 June 2008, para. 48; *Prosecutor v. Hormisdas Nsengimana*, Case No. ICTR-01-69-AR65, Decision on Application by Hormisdas Nsengimana for Leave to Appeal the Trial Chamber's Decision on Provisional Release, 23 August 2005, p. 3; *Emmanuel Rukundo v. The Prosecutor*, Case No. ICTR-01-70-AR65D.2, *Décision relative à la Demande d'autorisation d'interjeter appel (Mise en liberté [sic] provisoire)*, 28 April 2004, p. 3; *Prosecutor v. Zdravko Tolimir et al.*, Case No. IT-04-80-AR65.1, Decision on Interlocutory Appeal against Trial Chamber's Decisions Granting Provisional Release, 19 October 2005, para. 9; *Prosecutor v. Ivan Čermak and Mladen Markač*, Case No. IT-03-73-AR65.1, Decision on Interlocutory Appeal against Trial Chamber's Decision Denying Provisional Release, 2 December 2004, para. 30; *Prosecutor v. Astrid Haraqija and Bajrush Morina*, Case No. IT-04-84-R77.4-A, Decision on Motion of Bajrush Morina for Provisional Release, 9 February 2009, para. 6; *Prosecutor v. Vidoje Blagojević et al.*, Case No. IT-02-53-AR65, Decision on Application by Dragan Jokić for Leave to Appeal, 18 April 2002, para. 7).

⁴⁶ See *supra*, para. 7; see also, e.g., *Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-PT, Report from the Ministry of Justice, Republic of Serbia, No. 700-00-106/2004-08, 15 June 2006 (confidential).

Prosecution suggests are included in the list of conditions for Lukić's provisional release,⁴⁷ cannot preclude the Appeals Chamber from imposing such restrictions and conditions as it deems relevant and necessary in the circumstances. In any case, if any of the conditions stipulated below⁴⁸ is not, or might not be, complied with, the provisional release cannot be executed.

17. In light of the above and considering the circumstances at stake, the Appeals Chamber is satisfied that, if released, Lukić will surrender into detention at the conclusion of the fixed period for which he is provisionally released.

18. Likewise, the Appeals Chamber is satisfied that Lukić will not pose a danger to any victim, witness, or other person,⁴⁹ thus satisfying the requirement of Rule 65(I)(ii) of the Rules.

3. Lukić's residence in Serbia and duration of the provisional release

19. As regards Lukić's residence while on provisional release, the Appeals Chamber agrees with the Prosecution and finds that the circumstances of the temporary release do not justify Lukić's stay in Belgrade with his wife and son for reasons of emotional support. The sole purpose for which this provisional release is being granted is related to humane and compassionate considerations, namely a visit to Lukić's father who is in extremely poor health [REDACTED]. However, given that Lukić's father has been transferred to the Belgrade Hospital, the Appeals Chamber considers that provided all the conditions stipulated below are complied with,⁵⁰ Lukić may stay at the residential address in Belgrade mentioned in paragraph 6 of the Supplement and visit his father in the Belgrade Hospital.

20. As for the requested term of the provisional release, the Appeals Chamber finds that Lukić should be released for a period of up to six days, including two days of travel time, starting on the day after this decision or as soon thereafter as is practicable. Considering the circumstances, the Appeals Chamber finds that this duration is reasonable⁵¹ and will not disrupt the appellate proceedings given that the briefing of the appeals is completed and no date for the appeals hearing has yet been set.

⁴⁷ The list of guarantees offered by Serbia is not exhaustive (See State Guarantees, p. 1). Cf. Public Redacted Version of the "Decision on Vladimir Lazarević's Second Motion for Temporary Provisional Release on the Grounds of Compassion" Issued on 21 May 2009, 22 May 2009, para. 14.

⁴⁸ *Infra*, paras 20 *et seq.*

⁴⁹ In the Appeals Chamber's view, the Prosecution has not justified its request for further restricting Lukić's "telephonic and person contacts only to members of his immediate family", in addition to the conditions stipulated below (see Response, para. 6(6); see also *infra*, paras 20 *et seq.*).

⁵⁰ *Infra*, paras 20 *et seq.*

⁵¹ Cf. *Strugar* Decision of 15 April 2008, para. 13.

IV. DISPOSITION

21. For the foregoing reasons, the Appeals Chamber hereby **GRANTS** the Motion and **ORDERS** as follows:

1. Lukić shall be transported to Schiphol airport in The Netherlands by the Dutch authorities on 15 July 2010, or as soon thereafter as is practicable;
2. At Schiphol airport, Lukić shall be provisionally delivered into the custody of a representative of Serbia's Government, pursuant to paragraph (a) of the State Guarantees, who shall accompany Lukić for the remainder of his travel to and from the addresses in Belgrade detailed in paragraphs 5 and 6 of the Supplement;
3. The period of the provisional release shall commence when Lukić is delivered into the custody of the authorised representative of Serbia's Government and shall terminate upon his return to the Dutch authorities, which shall be no later than six days from the date of his release and in any event no later than 22 July 2010;
4. On his return flight, Lukić shall be accompanied by the authorised representatives of Serbia who shall deliver Lukić into the custody of the Dutch authorities at Schiphol airport; the Dutch authorities shall then transport Lukić back to the UNDU in The Hague; and
5. During the period of his provisional release, Lukić shall abide by the following conditions, and the government authorities of Serbia shall ensure compliance with such conditions:
 - a. before leaving the UNDU, Lukić shall provide details of his itinerary to the Ministry of Justice of The Netherlands and to the Registrar of the Tribunal;
 - b. Lukić shall be staying at the address in Belgrade indicated in paragraph 6 of the Supplement;
 - c. Lukić shall remain under armed 24-hour surveillance throughout his presence in Serbia;
 - d. Lukić shall surrender his passport to the Ministry of Justice of Serbia for the entire duration of his provisional release;
 - e. Lukić shall not have any contact whatsoever or in any way interfere with victims or (potential) witnesses or otherwise interfere in any way with the proceedings or the administration of justice;
 - f. Lukić shall not discuss his case with anyone, including the media, other than his counsel;

- g. Lukić shall comply strictly with any requirements of the authorities of Serbia necessary to enable them to comply with their obligations under the present decision;
- h. Lukić shall comply with any order of the Appeals Chamber varying the terms of or terminating his provisional release; and
- i. Lukić shall return to the UNDU no later than six days from the date of his release and in any event no later than 22 July 2010.

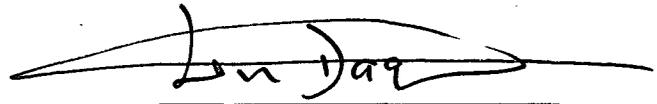
22. The Appeals Chamber further **REQUIRES** the Government of Serbia to assume responsibility for:

- 1. Designation of the official into whose custody Lukić shall be provisionally released and who shall accompany Lukić from Schiphol airport in The Netherlands to the locations in Belgrade as detailed in paragraphs 5 and 6 of the Supplement, and notification, as soon as practicable, to the Appeals Chamber and the Registrar of the Tribunal of the name of the designated official;
- 2. Ensuring Lukić's personal security and safety while on provisional release;
- 3. Providing 24-hour armed surveillance of Lukić throughout his stay in Serbia, including the transfer from Belgrade Airport to Belgrade and back;
- 4. All expenses in connection with the transport from Schiphol airport to Belgrade and back;
- 5. Facilitating, at the request of the Appeals Chamber or of the parties, all means of co-operation and communication between the parties and ensuring the confidentiality of any such communication;
- 6. Reporting immediately to the Registrar of the Tribunal as to the substance of any threats to Lukić's security, including full reports of investigations related to such threats;
- 7. Detaining Lukić immediately should he attempt to escape from the territory of Serbia, or should he in any other way breach the terms and conditions of his provisional release as set out in the present decision and reporting immediately any such breach to the Registry of the Tribunal and the Appeals Chamber;
- 8. Respecting the primacy of the Tribunal in relation to any existing or future proceedings in Serbia concerning Lukić; and
- 9. Submitting a written report to the Appeals Chamber, upon Lukić's return to the UNDU, as to Lukić's compliance with the terms of the present decision.

23. Finally, the Appeals Chamber **INSTRUCTS** the Registrar of the Tribunal to:
1. Consult with the Dutch authorities and the authorities of Serbia, as to the practical arrangements for Lukić's provisional release;
 2. Request the authorities of the State(s) through whose territory Lukić may travel to:
 - a. hold him in custody for any time he will spend in transit at the airport of the State(s) in question; and
 - b. arrest and detain Lukić pending his return to the UNDU should he attempt to escape during travel; and
 - c. continue to detain Lukić at the UNDU in The Hague until such time as the Appeals Chamber and the Registrar of the Tribunal have been notified of the name of the designated official of the Government of Serbia into whose custody Lukić is to be provisionally released.

Done in English and French, the English version being authoritative.

Dated this fourteenth day of July 2010,
At The Hague, The Netherlands.



Judge Liu Daqun, Presiding

[Seal of the Tribunal]